



## *Report to the Auburn City Council*

Action Item  
Agenda Item No. **4**

*[Signature]*  
City Manager's Approval

**To:** Honorable Mayor and City Council Members  
**From:** Robert Richardson, City Manager  
Andy Heath, Administrative Services Director  
**Date:** November 14, 2011  
**Subject:** Amendment of Auburn Municipal Airport Land Leases (Lot 11) –  
Chet Eccles III

### *The Issue*

Shall the City Council authorize the City Manager or his designee to execute land lease amendments at the Auburn Municipal Airport between the City of Auburn and Chet Eccles III?

### *Conclusions and Recommendations*

By **RESOLUTION**, authorize the City Manager or his designee to execute amendments to the Auburn Municipal Airport Industrial Park Land Lease Agreements and related documents for Lot 11 between the City of Auburn and Chet Eccles III.

### *Background*

On August 28, 1989, the City Council approved the assignment of a lease agreement for a land parcel in the Airport Industrial Park (Lot 11) entered into between the City and Gerald A. Murch in 1985 to Chet Eccles III. Subsequent to the assignment of the original lease and pursuant to City Council Resolution No. 92-183 executed on November 9, 1992, an option was granted to Chet Eccles III effectively extending the term of the lease by 25 years pursuant to payment of certain option consideration. The full amount of the option consideration has been paid to the City, effectively extending the lease termination date to September 30, 2060.

Chet Eccles III has requested that the current lease be split into two separate lease agreements as a means to ready one of the split off parcels for potential sale. Terms and conditions of the existing lease will be carried forward to the recommended bifurcated leases. Each new lease is scheduled to expire on September 30, 2060. The current annual lease income to the City's Airport Fund is \$7,318.08 and is currently scheduled for CPI review and adjustment in January 2012.

*Lease Lot Split*

The lease for Lot 11 currently houses two buildings. Chet Eccles III is desirous of splitting the lots into two separate and distinct leases, each containing one building as defined in the attached legal descriptions.

Parcel #1 is located at 2400 Lindberg Street. Parcel #2 is located at 2399 Rickenbacker Way. Annual rent currently paid under the existing lease will be split between the two new lots accordingly:

Parcel #1 – 33,053 sq ft \$5,306.81 Annual Rent

Parcel #2 – 12,527 sq ft \$2,011.27 Annual Rent

Because the leased parcels may have different tenants over time, the new legal descriptions include applicable easements for the joint use, protection and maintenance of the ingress and egress to the two parcels, for the shared use of a trash enclosure, for the maintenance of utilities, and for applicable building maintenance.

*Alternatives Available to Council; Implications of Alternatives*

1. Adopt a resolution authorizing the City Manager or his designee to execute land lease amendments at the Auburn Municipal Airport between the City of Auburn and Chet Eccles III.
2. Do not adopt a resolution and direct staff accordingly.

*Fiscal Impact*

None – Splitting the lease line boundaries for Lot 11 will have no impact on the total lease revenue generated at the Airport Industrial Park.

*Budget Reference*

N/A

Exhibit A – Second Amendment to Lot 11 Lease – 2400 Lindberg Street

Exhibit B – New Lease – 2399 Rickenbacker Way

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RESOLUTION NO. 11-  
RESOLUTION AMENDING AUBURN MUNICIPAL AIRPORT LAND LEASES FOR  
CHET ECCLES, III

-----  
THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby adopt a  
resolution authorizing the City Manager or his designee to execute  
amendments to the Auburn Municipal Airport Industrial Park Land Lease  
Agreements and related documents for Lot 11 between the City of Auburn and  
Chet Eccles III.

DATED: November 14, 2011

\_\_\_\_\_  
William W. Kirby, MD, Mayor

ATTEST:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
that the foregoing resolution was duly passed at a regular meeting of the City  
Council of the City of Auburn held on the 14<sup>th</sup> day of November 2011 by the  
following vote on roll call:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

## SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE ("Amendment"), dated as of \_\_\_\_\_, 2011 (the "Effective Date"), is made by and between the City of Auburn, a municipal corporation ("City") and Chet Eccles III ("Lessee").

## RECITALS

A. City and Lessee's predecessor in interest, Gerald Murch ("Murch"), entered into that certain Auburn Airport Industrial Park Industrial Site Lease dated October 1, 1985 (the "1985 Lease"), pursuant to which Murch leased certain property at the Auburn Airport commonly referred to as Lot 11 (the "1985 Premises").

B. The 1985 Lease was subsequently assigned on or about August 28, 1989, to Lessee, and Lessee was granted a right of first refusal to lease the west one-half of Lot 12.

C. Effective as of November 9, 1992, the 1985 Lease was amended by that certain Addendum to Lease of Lot 11 at Auburn Airport Industrial Park to extend the term of the 1985 Lease by 25 years, so that the term of the 1985 Lease was extended until September 30, 2060 (as amended, the "1992 Lease").

D. By this Amendment, the parties intend to amend the legal description of the Leased Premises to be a portion of the 1993 Leased Premises, and to adjust the Fixed Rental accordingly.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Leased Premises. The Lease is hereby amended to define the Leased Premises as the real property, being a portion of the Auburn Airport Industrial Park, as legally described on Exhibit "A," and together with an easement over real property as described on Exhibit "C," which exhibits are attached hereto. The Leased Premises are depicted on Exhibit "D" hereto. In addition, the Leased Premises are subject to those easements described in Exhibit "E" hereto. The Leased Premises are commonly known as 2400 Lindbergh Street.

2. Fixed Rental. Section 7 of the Lease is hereby amended to provide that the Fixed Rental as of the Effective Date is \$442.23 per month.

3. No Other Changes. Except as expressly modified by this Amendment, all other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

“CITY”

CITY OF AUBURN, CALIFORNIA, a  
Municipal Corporation

By: \_\_\_\_\_  
Robert Richardson  
City Manager

“LESSEE”

\_\_\_\_\_  
CHET ECCLES III

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Colantuono, City Attorney

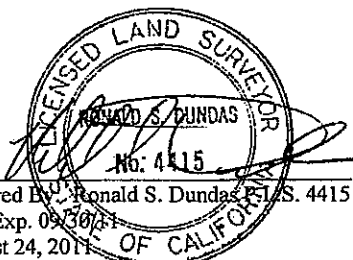
EXHIBIT "A"  
PROPERTY DESCRIPTION

PARCEL NO. 1

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at the southwest corner of said "Chet Eccles III" parcel, marked by a ¼" iron pin with a copper collar stamped LS 4571, and running thence North 89°40'24" East 261.91 feet along the southerly boundary line of said Eccles parcel; thence leaving said southerly boundary line running North 00°55'40" West 126.56 feet, more or less, to a point in the northerly boundary line of said Eccles parcel; thence South 89°40'35" West 260.40 feet, more or less, along the northerly boundary line of said Eccles parcel, to the northwest corner thereof; thence South 00°14'39" East 126.57 feet, more or less, along the westerly boundary of said Eccles parcel, to the point of beginning, containing 33,053 square feet, more or less.



Prepared By: Ronald S. Dundas, P.L.S. 4415  
Reg. Exp. 09/30/11  
August 24, 2011

EXHIBIT "A"

**EXHIBIT "B"**

**There is no Exhibit "B"**

**EXHIBIT "B"**

EXHIBIT "C"

PROPERTY DESCRIPTION

PARCEL NO. 3

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as:

"SPENCER/ECCLES #91-62"

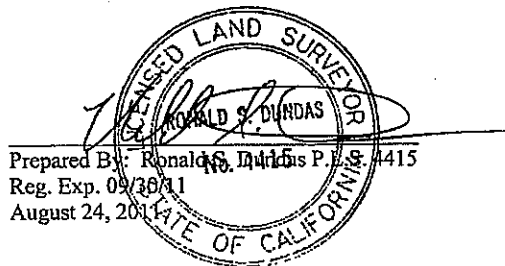


EXHIBIT "C"

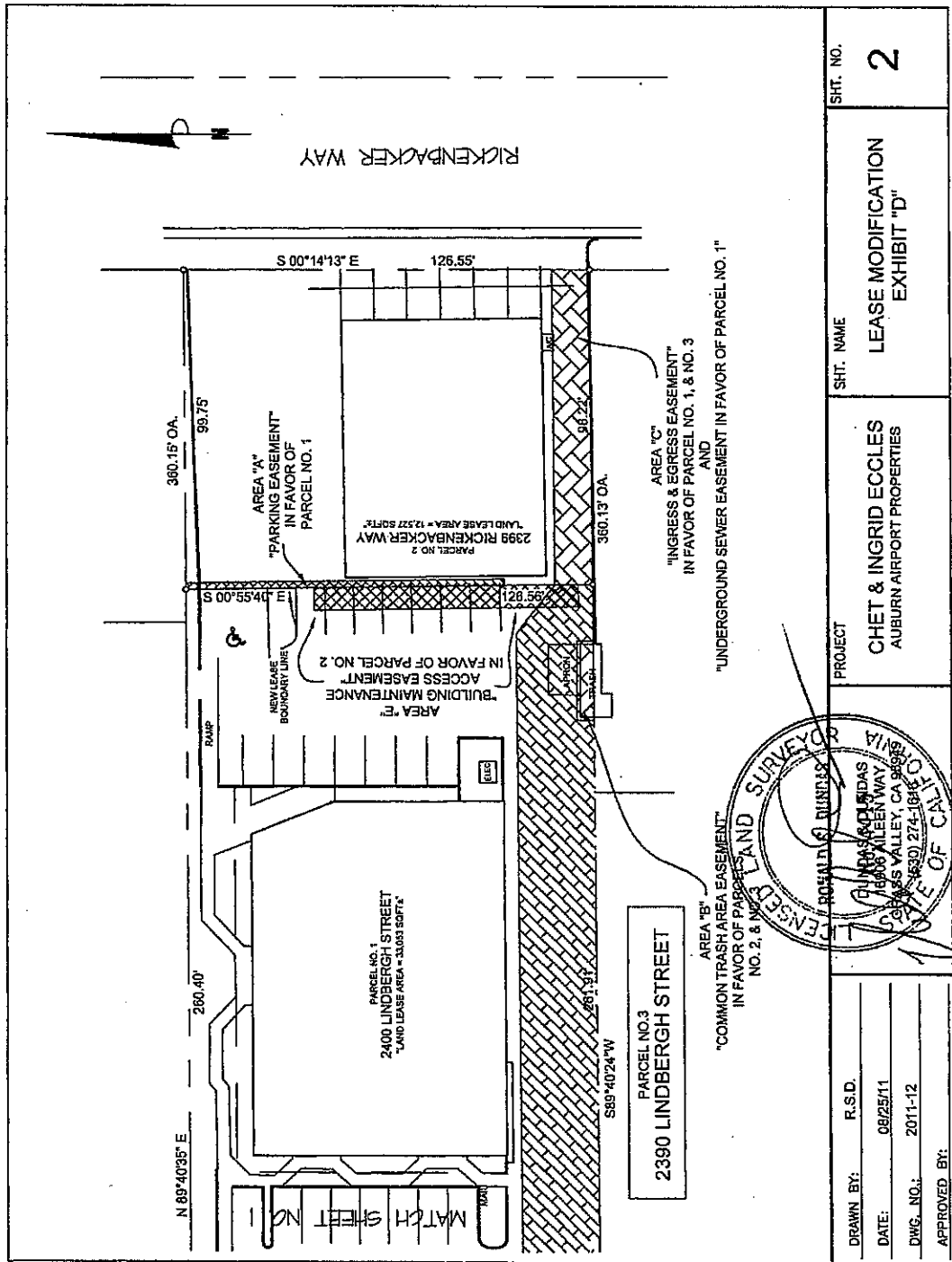
**EXHIBIT "D"**

**Depiction of the Leased Premises**

**(behind this page)**

**EXHIBIT "D"**





DRAWN BY: R.S.D.		PROJECT: CHET & INGRID ECCLES AUBURN AIRPORT PROPERTIES	SHT. NAME: LEASE MODIFICATION EXHIBIT "D"	SHT. NO.: 2
DATE: 08/25/11				
DWG. NO.: 2011-12				
APPROVED BY:				

EXHIBIT "D"

EXHIBIT "E"  
EASEMENT DESCRIPTIONS

AREA "A" Parking Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the north line of the Eccles parcel, from which point the northwest corner thereof bears South 89°40'35" West 260.40 feet distant; thence leaving said north line, South 00°55'40" East 98.83 feet; thence North 89°40'35" East 2.00 feet; thence North 00°55'40" West 98.83 feet, more or less, to a point in the north line of said Eccles parcel; thence running along said north line, South 89°40'35" West 2.00 feet, more or less, to the point of beginning.

AREA "B" Common Trash Area Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the south boundary line of said Eccles parcel, from which point the southwest corner thereof bears, South 89°40'24" West 219.50 feet distant; thence running North 00°03'57" East 5.37 feet; thence South 89°56'03" East 24.78 feet; and thence South 00°03'57" West 5.20 feet, more or less, to a point in the south line of said Eccles parcel; thence South 89°40'24" West 24.78 feet, more or less, along the south boundary of said Eccles parcel, to the point of beginning.

EXHIBIT "E"

AREA "C" Ingress, Egress and Sewer Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the south boundary line of said Eccles parcel, from which point the southwest corner thereof bears, South 89°40'24" West 261.91 feet distant; thence running North 00°55'40" West 12.00 feet; thence North 89°40'24" East 98.36 feet, more or less, to a point in the east boundary line of said Eccles parcel; thence continuing along said east boundary line, South 00°14'13" East 12.00 feet, more or less, to the southeast corner thereof; thence running along the south boundary line of said Eccles parcel, South 89°40'24" West 98.22 feet, more or less, to the point of beginning.

AREA "D" Ingress and Egress Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at the southwest corner of said Eccles parcel and running thence along the west boundary line of said parcel, North 00°14'39" West 24.00 feet; thence leaving said west boundary line, North 89°40'24" East 246.54 feet; thence South 52°04'02" East 19.38 feet; thence South 00°55'40" East 12.00 feet, more or less, to a point in the south boundary line of said Eccles parcel; thence continuing along said south boundary line, South 89°40'24" West 261.91 feet, more or less, to the point of beginning.

EXHIBIT "E"

AREA "E" Building Maintenance Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point in said Eccles property, from which point the northwest corner thereof bears the following two courses distant, North 00°55'40" West 40.10 feet and South 89°40'35" West 260.40 feet; thence from said point of beginning South 00°55'40" East 81.84 feet; thence South 89°12'22" West 7.00 feet; thence North 00°55'40" West 81.84 feet; and thence North 89°12'22" East 7.00 feet, more or less, to the point of beginning.

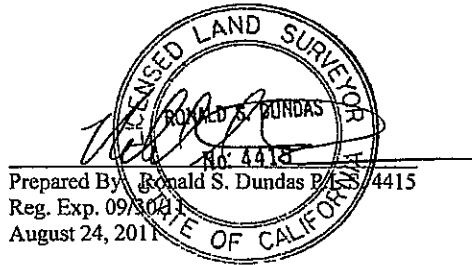


EXHIBIT "E"

When recorded return to:

Joseph G.R. Labrie, City Clerk  
City of Auburn  
1225 Lincoln Way  
Auburn, CA 95603

**CITY OF AUBURN  
AUBURN MUNICIPAL AIRPORT LAND LEASE**

BY AND BETWEEN

CITY OF AUBURN,  
A MUNICIPAL CORPORATION  
("CITY")

AND

CHET ECCLES III  
("LESSEE")

**CITY OF AUBURN  
AUBURN MUNICIPAL AIRPORT LAND LEASE**

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**CITY OF AUBURN  
AUBURN AIRPORT INDUSTRIAL PARK  
INDUSTRIAL SITE LEASE**

This Industrial Site Lease ("Lease"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011 (the "Effective Date"), by and between the City of Auburn, a Municipal Corporation (herein called "City"), and Chet Eccles III (herein called "Lessee").

**RECITALS**

A. City and Lessee are parties to that certain Auburn Airport Industrial Park Industrial Site Lease originally dated October 1, 1985 (the "1985 Lease"), assigned on or about August 28, 1989, amended by that certain Addendum to Lease of Lot 11 at Auburn Airport Industrial Park to extend the term of that lease by 25 years (the 1993 Lease).

B. Concurrently herewith, the 1993 Lease is amended by that certain Second Amendment to Lease to revise the definition of the leased premises thereunder.

C. This Lease Premises hereunder had been included in the definition of leased premises under the 1993 Lease.

D. By this Lease and the Second Amendment to Lease the parties intend to split the leased premises as described in the 1993 Lease into two parcels, and for Lessee to continue his lease of the Leased Premises as defined herein on substantially similar terms and conditions (other than the Fixed Rental) as contained in the 1993 Lease.

**WITNESSETH**

For, and in consideration of, the mutual covenants hereof, City hereby leases to Lessee and Lessee hereby hires from City the Leased Premises as hereinafter described, upon the terms and conditions hereinafter set forth.

**1. Leased Premises.**

The Leased Premises ("Leased Premises") consist of real property being a portion of the Auburn Municipal Airport (the "Airport"), particularly described and shown on the Legal Description, **Exhibit B**, and an easement in certain real property as described in **Exhibit C**, made a part of this Lease. The Leased Premises are depicted on **Exhibit D**, made part of this Lease. The Leased Premises are subject to those easements as described in **Exhibit E**. The Leased Premises are commonly known as 2399 Rickenbacker Way.

**2. Use of Leased Premises.**

A. The Leased Premises may be used for aviation or industrial services and activities, provided that any uses shall be in conformance with applicable zoning regulations of the City of Auburn. The Leased Premises have been improved with an industrial building constructed pursuant to the 1985 Lease.

B. Lessee agrees that the use of the Leased Premises, the development thereof, and any construction thereon, shall be in accordance with the applicable provision of City Codes and Ordinances.

**3. Reserved. 4. Lease Term.**

A. Subject to prior termination upon "an event of default by Lessee," as hereinafter provided, the term of this Lease ("Lease Term") shall be for a period of \_\_\_\_\_ years, commencing on the Effective Date, and ending on September 30, 2060.

B. Prior to the Effective Date, Lessee was in possession of the Leased Premises pursuant to the 1985 Lease as assigned and amended.

**5. Fixed Annual Rent.**

Except as provided herein, Lessee shall pay to City in lawful money of the United States of America, without deduction, offset or abatement at City's principal place of business, or at such place or places, or to such person or persons as may be designated from time to time by City, the following fixed rentals for the Leased Premises:

A. A Fixed Annual Rent of \$2,011.32 per year of the Lease as adjusted periodically pursuant to Sections 5.C and D thereafter until the expiration of the Lease term.

B. The Fixed Annual Rent shall be paid in equal monthly installments, payable in advance on the first day of each calendar month commencing on the Effective Date until the term of the Lease expires. Fixed Rent for any partial month of the Term shall be prorated on a daily basis.

C. Commencing on or about January 1, 2012, and every fifth year thereafter, the Fixed Annual Rent of the Leased Premises shall be adjusted as described below. In no event shall the Fixed Annual Rent fall below the Fixed Annual Rent set forth at paragraph 5.A. above.

- The Fixed Annual Rent shall be adjusted upward by a factor computed as the percentage difference in the Consumer Price Index ("CPI") starting with the CPI value for the third month before the Effective Date and ending with the CPI value for the third month before the anniversary date.
- The CPI used in the above computation shall be the State of California, Department of Industrial Relations, Division of Labor Statistics and Research, All Urban Consumers.

D. If any Fixed Annual Rent payment is not received by Landlord within five days after it is due, Lessee shall pay to Landlord a late charge of six (6%) percent of the past due amount as liquidated damages, in lieu of actual damages. The parties agree that this late charge represents a reasonable estimate of the expenses that Landlord will incur because of any late payment of Fixed Annual Rent (other than interest and attorneys' fees and costs). Landlord's acceptance of any liquidated damages shall not constitute a waiver of Lessee's default with respect to the overdue amount or prevent Landlord from exercising any of the rights and remedies available to Landlord under this Lease. Lessee shall pay the late charge as additional rent with the next installment of rent.

**6. Construction.**

The Leased Premises have been improved in accordance with the 1985 Lease.

**7. Compliance with Laws and Regulations.**

A. Lessee shall, at Lessee's own cost and expense, obtain and maintain all licenses, permits, certificates or other authorizations of any governmental authority having jurisdiction thereover, including, but not limited to, the FAA, which may be necessary for the conduct of its business in the Leased Premises. Without limiting the generality of the foregoing, Lessee shall comply with all applicable laws, resolutions, codes, rules, orders, directions, ordinances and regulations of any department, bureau or agency or any governmental authority having jurisdiction over the operations, occupancy, maintenance and use of the Leased Premises for the purpose demised hereunder. Lessee shall indemnify and save City harmless from and against any claims, penalties, losses, damages or expenses imposed by reason of Lessee's violation of any applicable law or the rules and regulations of governmental authorities having jurisdiction thereof.

B. Lessee shall not omit or fail to do anything, or do or permit anything to be done on or about the Leased Premises, or bring or keep anything on the Leased Premises, or in any improvement or facility erected thereon, which will in any way conflict with any law, ordinance, rule or regulation which is now in force or which may hereafter be enacted or promulgated by any public authority having jurisdiction over the Leased Premises.

C. Lessee shall not commit or suffer to be committed in or upon the Leased Premises any other act or thing that may disturb any other Lessee at the airport. It is understood that the normal operation of airplanes in the air, and to and from the Leased Premises, is not considered a disturbance; provided that Lessee complies with all applicable laws, including, without limitation, FAA regulations, judicial orders and the City's rules and regulations governing the use and operation of the Airport, as may be amended from time to time during the term of this Lease.

**8. Use and/or Storage of Hazardous Material.**

If it is necessary for Lessee or its sublessees, assigns, contractors, licensees, employees, agents, customers or invitees to use Hazardous Material (as defined in Section 8.E) which will be generated, brought onto, used, stored or disposed of by Lessee, its agents, employees, contractors, sublessees or invitees, Lessee shall comply with the following provisions:

A. The use, storage and disposal of all such Hazardous Material shall be in strict compliance with applicable statutes, ordinances and regulations in effect during the term of this Lease that relate to public health and safety and the protection of the environment ("Environmental Laws"), including those Environmental Laws identified in Section 8.E.

B. If, during the Lease term (including any extensions), Lessee become aware of (i) any actual or threatened release of any Hazardous Material on, under or about the Leased Premises or any buildings and facilities constructed thereon, or (ii) any inquiry, investigation, proceeding or claim by any governmental agency or other person regarding the presence of Hazardous Material on, under or about the Leased Premises or any building or facility constructed thereon, Lessee shall give City written notice of the release or investigation within five days after learning of it and shall simultaneously furnish to City copies of any claims, notices

of violation, reports, or other writings received or prepared by Lessee that concern the release or investigation.

C. Lessee shall, at Lessee's sole expense and with counsel reasonably acceptable to City, indemnify, defend and hold harmless City and City's employees, agents, elected officials, successors and assigns with respect to all losses arising out of or resulting from the release of any Hazardous Materials in or about the Leased Premises or any building or facility constructed thereon, or the violation of any Environmental Law by Lessee or Lessee's agents, employees, assigns, sublessees, contractors, customers or invitees. This indemnification applies whether or not the concentrations of any such Hazardous Material is material, the concentrations exceed state or federal maximum contaminant or action levels, or any governmental agency has issued a clean-up order. This indemnification includes: (i) losses attributable to diminution in the value of the Leased Premises or any building or facility that may revert to City; (ii) loss or restriction of use of the Leased Premises or any building or facility that may revert to the City; (iii) adverse effects on the marketing of the Leased Premises or any building or facility that may revert to City; and (iv) all other liability, obligations, penalties, fines, claims, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders, or judgments), damages (including consequential and punitive damages), and costs (including attorney, consultant and expert fees and expenses) resulting from the release or violation. This indemnification shall survive the expiration or termination of this Lease.

D. If the presence of any Hazardous Material brought onto the Leased Premises or any building or facility constructed thereon, by Lessee or Lessee's sublessees, assigns, employees, agents, contractors, customers or invitees results in contamination, Lessee shall promptly take all necessary actions to remove or remediate such Hazardous Materials, whether or not they are present at concentrations exceeding state or federal maximum concentration or action levels, or any governmental agency has issued a clean-up order, at Lessee's sole expense to return the Leased Premises or any building or facility constructed thereon, to the condition that existed before the introduction of such Hazardous Material. Lessee shall first obtain City's approval of the proposed removal or remedial action. This provision does not limit the indemnification obligation set forth in Section 8.C.

E. As used in this Section 8, the term "Hazardous Material" shall mean any hazardous or toxic substance, material or waste at any concentration that is or becomes regulated by the United States, the State of California, or any local governmental authority having jurisdiction over the Leased Premises or any building or facility constructed thereon. "Hazardous Material" includes, but is not limited to: (i) any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA, 42 U.S.C. Sections 9601-9675); (ii) "hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA, 42 U.S.C. Sections 6901-6992k); (iii) any pollutant, contaminant or hazardous, dangerous or toxic chemical, material or substance, within the meaning of any other applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous or toxic waste, substance or material now or hereafter in effect); (iv) petroleum products; (v) radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Sections 2011-2097g-4); (vi) asbestos in any form or condition; and (vii) polychlorinated biphenyls ("PCBs") and substances or compounds containing PCBs.

F. City shall have the right, at any time, at its expense, to cause testing wells to be installed on or about the Leased Premises and/or the Airport, and may, at its option, cause the ground water, soil and air to be tested to detect the presence of hazardous materials or toxic substances during the term of the Lease by the use of such tests as are then customarily used for such purposes. If Lessee so requests, City shall supply Lessee with copies of such test results. Should the Lessee be responsible for the presence of hazardous materials or toxic substances, the cost of such tests and of the maintenance, repair and replacement of such wells shall be fully paid for by Lessee within 30 days after receiving a statement of charges from City.

G. City and City's agents shall have the right, with prior notice, to inspect the Leased Premises for the purposes of ascertaining Lessee's compliance with this section. The cost of such inspections shall be reimbursed to City by Lessee.

H. It shall not be unreasonable for City to withhold its consent to any proposed assignment or sublease if: (i) the proposed assignee's or sublessee's anticipated use of the Leased Premises or the Airport involves the generation, storage, use, treatment or disposal of hazardous materials or toxic substances; (ii) the proposed assignee or sublessee has been required by any prior landlord, lender or governmental authority to take remedial action in connection with hazardous materials or toxic substances contaminating a property if the contamination resulted from such assignee's or sublessee's actions or use of the property in question; or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal or storage of any hazardous materials or toxic substances.

I. Any increase in the premium for insurance carried by City or required of Lessee under this Lease on the Leased Premises or the Airport which arises from Lessee's use and/or storage of these materials shall be solely at Lessee's expense. Lessee shall procure and maintain at its sole expense such additional insurance as may be necessary to comply with any requirement of any federal, state or local governmental agency or special district with jurisdiction.

## **9. Maintenance and Repairs.**

A. Lessee accepts the Leased Premises on an "as-is" basis. It is the intention of the parties hereto that the rent for the term of the Lease shall constitute a net return to the City free of any expense, charge or other deduction whatsoever with respect to the Leased Premises or any improvements, fixtures and equipment which may now or hereafter exist thereon. Lessee shall keep Leased Premises and any improvements or equipment thereon in good and sanitary order and repair and in a good, safe and presentable condition consistent with the highest of business practices. If, after 30 days' notice from the City, Lessee fails to maintain or repair any part of the Leased Premises or any improvements or equipment thereon, City may, but shall not be obligated to, enter upon the Leased Premises and perform such maintenance or repair, and Lessee agrees to pay the costs thereof to City upon demand plus a percentage of costs incurred to sufficiently reimburse City for all overhead, fees and other costs and expenses, including attorneys' fees, arising from City's involvement with such repairs, and interest at the legal rate until paid in full.

B. Lessee shall be solely responsible for all actions, costs and expenses incurred to comply with any and all structural requirements, abatement ordinances, zoning requirements, statutes, rules and regulations imposed by any governmental authority with jurisdiction relating to safety or the abatement of Hazardous Materials found in the Leased Premises or any buildings

or facilities constructed thereon, including, without limitation, compliance with requirements, laws or orders for asbestos abatement, lead abatement and seismic retrofit.

C. Lessee shall be solely responsible for compliance with any requirements or obligations imposed or arising from the use of the Leased Premises, or buildings or facilities constructed thereon relating to the Americans with Disabilities Act ("ADA").

D. City shall have no obligation to make any repairs to the Leased Premises other than as expressly and specifically set forth in this Lease. Lessee hereby waives any and all rights provided in Sections 1941 through 1942, inclusive, of the Civil Code of California and hereby waives, to the extent permissible, any rights other than statutes or laws now or hereafter in effect which are contrary to the obligations of Lessee under this Lease, or which place obligations upon City in addition to those provided in this Lease.

#### **10. Abandonment.**

Lessee shall not abandon, as defined under California law, the Leased Premises at any time during the term hereof, and if Lessee shall abandon, vacate or otherwise cease operating, any personal property belonging to Lessee and left upon the Leased Premises and any or all of Lessee's improvements and facilities thereon, shall, at the option of City, become the property of City.

#### **11. Liens.**

A. Lessee shall keep the Leased Premises and all improvements thereon free from any and all liens arising out of any work performed, materials furnished or obligation incurred, except as provided in Section 23 hereof, by Lessee, Lessee's employees, agents and contractors. City has the right at all times to post and keep posted on the Leased Premises and any building or facility built thereon, any notice it considers necessary for protection from such liens. At least seven days before beginning construction of any improvements or alteration to any improvements on the Leased Premises, Lessee shall give City written notice of the expected commencement date of that construction to permit City to post and record a notice of nonresponsibility. Lessee agrees to save City harmless from any such liens, including any lien created pursuant to Section 23 hereof, and to pay City upon demand the cost of discharging such liens (other than those which may have been created pursuant to Section 23 hereof) with interest at the then existing legal rate per annum from the date of discharge, together with reasonable attorneys' fees in connection with the settlement, trial or appeal of any such lien matter.

B. In the event Lessee shall fail to pay and discharge or cause to be paid and discharged, when due and payable, any tax, assessment or other charge upon or in connection with the Leased Premises, or any lien or claim for labor or material employed or used or any claim for damages arising out of the construction, repair, restoration, replacement, maintenance and use of the Leased Premises and any improvements thereon, or any judgment on any contested lien or claim, or any insurance premium or expense in connection with the Leased Premises and improvements, or any other claim, charge or demand which Lessee has agreed to pay or cause to be paid under the terms of this Lease, and if Lessee, after 10 days' written notice from City to do so shall fail to pay and discharge the same, or in the event Lessee contests such tax, assessment, claim or charge and fails to post security as provided in Section 12, then City may, at his option, pay any such tax, assessment, insurance expense, lien, claim, charge or demand, or settle or discharge any action therefor, or judgment thereon, and all costs, expenses and other sums

incurred or paid by City in connection with any of the foregoing shall be paid by Lessee to City upon demand, together with interest thereon at the legal rate from the date incurred or paid. Any default in such repayment by Lessee shall constitute a breach of the covenants and conditions of this Lease.

**12. Taxes.**

In accordance with California Revenue and Taxation Code Section 107.6(a), City states that entering into this Lease may create a possessory interest subject to property taxes. During the original term and any additional term of this Lease, Lessee or any other party in whom the possessory interest is vested shall pay prior to delinquency any taxes upon the assessed value of the entire Leased Premises, not merely the assessed value of Lessee's estate. In addition, Lessee hereby agrees to pay or cause to be paid prior to delinquency any taxes, including possessory interest, and any assessments levied or assessed:

A. On the Leased Premises, whether a direct levy or indirect through City and any tax in lieu of property tax;

B. On all possessory interests hereunder or in the Leased Premises;

C. On any improvements, fixtures and equipment now or hereafter existing on the Leased Premises and on any personal property situated in, on or about any building or improvements thereon; and

D. If at any time during the term of this Lease a tax or excise is levied on rents, Lessee shall pay the same. Also, if at any time during the term of this Lease any tax, however described, is levied or assessed against City as a substitute, in whole or in part, for any real property taxes, or in addition to such real property taxes, Lessee shall pay before delinquency the substitute or additional tax or excise. Such substitutes include, but are not limited to, any possessory interest tax imposed on Lessee by California Revenue and Taxation Code Sections 103 and 107. Lessee hereby expressly acknowledges that City has given Lessee notice that Lessee's possessory interest in the demised Leased Premises may be taxed.

E. In the event Lessee fails to pay such taxes or assessments, City may, at its option, after giving 10 days' notice to Lessee, pay any such taxes or assessments together with all penalties and interest which may have been added thereto by reason of any such delinquency or failure to pay, and may likewise redeem the Leased Premises or any part thereof, or the buildings or improvements located thereon, from any tax sale or sales. Any such amounts so paid by City shall become immediately due and payable as additional rent by Lessee to City, together with interest thereon at the maximum lawful rate from the date of payment by City until paid by Lessee. Any such payment shall not be deemed to be a waiver of any other rights of City hereunder. Lessee may, in good faith, contest any such tax or assessment at its expense. However, Lessee shall defend itself and City against the same and shall pay and satisfy any judgment including all penalties and interest that may be rendered thereon. City may require Lessee to furnish City a surety bond or other security reasonably satisfactory to City in an amount equal to such contested tax or assessment, indemnifying City against liability for such tax or assessment and holding the Leased Premises free from the effect of such tax or assessment. City shall cooperate with Lessee in any such contest and shall execute any necessary legal documents incident thereto, but shall be held harmless by Lessee against all costs or expenses incident to such cooperation. Current taxes shall be prorated as of the Effective Date.

**13. Connections to Utility Services.**

Subject to applicable ordinances and regulations, Lessee may, at Lessee's expense, connect to sewer, water and electrical facilities and Lessee shall thereafter maintain said facilities within the boundaries of Leased Premises. Lessee shall prevent the entrance of objectionable quantities of petroleum products and other deleterious wastes into the sewage and storm water drainage systems serving the airport. Discharge of industrial waste and Hazardous Materials is prohibited. For discharge of anything other than domestic waste, Lessee must obtain permission or permits from Placer County Department of Public Works, Special District Division, or any other governmental unit or agency having jurisdiction over the discharge of wastes other than domestic waste, including, without limitation, Hazardous Materials.

**14. Utilities, Trash, Refuse, Traffic Mitigation Fees.**

A. All charges for utility services to the Leased Premises shall be paid by Lessee when due, including connection fees, plant expansion fees, monthly service fees and standby charges, all as amended from time to time. City is not, and will not, be liable for any loss, damage or inconvenience to the Lessee by reason of shortage, insufficiency, suspension or discontinuance of electrical service or water service or the increase or decrease of water pressure.

B. It is agreed that the quick, efficient collection and disposal of trash, clippings and refuse from the Leased Premises shall be at Lessee's own expense in accordance with applicable laws and ordinances.

C. Lessee shall not allow clippings, trimmings, cans, cartons, barrels, used equipment, scrap or other debris to collect in any way on or about the Leased Premises; provided, however, that same may be stored in a suitably screened and protected enclosure pending collection and removal as long as such storage does not generate odors, attract rodents or insects or become offensive in any manner.

**15. Indemnification.**

City shall not be liable to Lessee or any other person whomsoever for death or personal injury or for loss or destruction of, or damage to, property in, on or about the Leased Premises and any improvement thereon, and upon the Effective Date of the Lease, Lessee shall, for the full term of this Lease, indemnify and save harmless City and its officers, agents and employees from and defend the same against any and all claims, liens, liability, expense (including attorneys' fees), losses and judgments arising from death or personal injuries or from the loss or destruction of, or damage to, property of any person whomsoever resulting from the acts, omissions or negligence of Lessee, Lessee's officers, agents, contractors, permittees or employees with respect to use of or Lessee's obligation to maintain the Leased Premises and any improvements thereon.

**16. Insurance.**

A. Lessee shall obtain insurance coverage beginning on the Effective Date and continuing through the entire Lease term. The acceptable insurance shall be at least as broad as: (i) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (ii) property insurance against all risks of loss to any Lessee improvements or betterments; and

B. Lessee shall maintain limits no less than:

(1) General liability: \$1 million per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separate to this Lease or the general aggregate limit shall be twice the required occurrence limit.

(2) Property insurance: Full replacement cost with no coinsurance penalty provision.

(3) If applicable, Hangar Keepers Liability Insurance: \$100,000 per aircraft but not less than the replacement value of all aircraft in the care, custody and control of Lessee.

C. Any deductibles or self-insured retention must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or Lessee shall provide a financial guaranty satisfactory to City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. The general liability policy is to contain, or be endorsed to contain, the following provisions:

(1) City, its officers, officials, employees and volunteers are to be covered as insured with respect to liability arising out of ownership, maintenance or use of that part of the Leased Premises leased to Lessee.

(2) Lessee's insurance coverage shall be primary insurance as respects City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees or volunteers shall be excess of Lessee's insurance and shall not contribute with it.

(3) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after 30 days' prior written notice by mail, or after 10 days prior written notice by mail if cancellation is due to non-payment of premium, has been given to City.

E. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

F. Lessee shall furnish City with original certificates and amendatory endorsements effecting coverage required by this Section 16. All certificates and endorsements are to be received and approved by City before any work or improvements or alterations to the Leased Premises commence. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

#### **17. Inspection of Leased Premises and Improvements.**

Lessee shall permit the respective agents, employees or appointees of City to enter in and upon the Leased Premises and all improvements thereon at all reasonable times for the purpose of inspecting the same.

**18. Reversion of Title.**

During the term of this Lease, title to any and all improvements placed on the Leased Premises by Lessee shall be vested in Lessee. At the end of the Lease term, title to all such improvements shall revert to the City. City may elect to have any improvements removed by Lessee, at the end of the lease term, upon written notice to Lessee. If City so elects, Lessee, at Lessee's sole cost and expense, shall remove all improvements specified by City in its notice and repair all damage caused by such removal. If City does not elect to have Lessee remove improvements, the improvements shall be transferred to the City in good merchantable condition, including all fixtures, reasonable wear and tear excepted. Lessee shall be responsible for any and all costs, expenses and compliance activities relating to the improvements which will revert to City concerning Environmental Laws, Hazardous Materials and ADA compliance. If City discovers, after title has been transferred to it pursuant to this reversion provision, that Lessee has failed to comply with the requirements set forth in the foregoing sentence, Lessee shall indemnify and hold harmless City of and from all costs, expenses, damages, losses and claims, including reasonable attorneys' fees, arising from or related to compliance with such provisions by the City.

**19. Events of Default by Lessee.**

Each of the following events shall constitute "an event of default of Lessee":

- A. Lessee's failure to pay the rent herein fixed for the payment hereof;
- B. Lessee's failure to pay any taxes, including possessory interest taxes or assessments agreed to be paid by Lessee in Section 12 of this Lease in accordance with the terms of said section;
- C. The failure of Lessee to abide by the terms, covenants or conditions as specified in Section 2.A.
- D. Lessee's failure to obtain City's approval of subletting or assignment as set forth in Section 25.
- E. Breach of Federal Requirements as specified in Section 29.
- F. Lessee's failure, after 60 days' written notice from City, to keep, perform or observe any other term, covenant or condition of this Lease to be kept, performed or observed by Lessee;
- G. Lessee's failure to initiate, within six (6) months and complete within twelve (12) months, replacement, of any improvements on the Leased Premises which have been destroyed by fire, explosion, flood, windstorm or other calamity within six months after the date of destruction; and
- H. Lessee's filing of a voluntary petition in bankruptcy, or the assignment of all, or substantially all, of Lessee's assets for the benefit of Lessee's creditors or the institution of proceedings in bankruptcy against Lessee or the appointment of a receiver of the assets of Lessee; provided, however, that if such proceedings or appointments are involuntary, then they shall not be considered an "event of default by Lessee," unless Lessee fails to procure a dismissal thereof within 60 days after the institution of such involuntary bankruptcy proceedings or the appointment of such receiver.

## **20. Results of Lessee's Default.**

Upon the occurrence of an "event of default of Lessee," and after 60 days' written notice from City, City, besides any other rights or remedies it may have, shall have as only allowed by law the immediate right of re-entry and may remove all persons and property from the Leased Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, Lessee. Should City elect to re-enter as herein provided, or should it take possession pursuant to any notice provided for by law, it may either terminate this Lease, relet the Leased Premises and any improvements thereon or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as City, in its sole discretion, may deem advisable, with the right to make alterations and repairs to said Leased Premises and improvements. Upon such reletting:

A. Lessee shall be immediately liable to pay to City, in addition to any indebtedness other than rent due hereunder, the cost and expenses of such reletting of such alterations and repairs incurred by City, and the amount, if any, by which the rent reserved in this Lease for the period of such reletting (up to, but not beyond the term of this Lease) exceeds the amount agreed to be paid as rent for the Leased Premises for the period of such reletting; or

B. At the option of City, rents received by City from such reletting shall be applied: first, to the payment of any indebtedness other than rent due hereunder from Lessee to City; second, to the payment of any costs and expense of such reletting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by City and applied in payment of future rent as the same may become due and payable hereunder.

C. If Lessee has been credited with any rent to be received by such reletting upon Section 20.A, and such rent shall not be promptly paid to City by the new Lessee, or if such rentals received from such reletting under Section 20.A during any month be less than that to be paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to City. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Leased Premises and any improvements thereon by City shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Lessee. Notwithstanding any such reletting without termination, City may, at any time thereafter, elect to terminate this Lease for such previous breach. Should City at any time terminate this Lease for any breach, City may, upon 60 days' written notice thereof, take title to Lessee's interest in any and all buildings and improvements on the Leased Premises. The City may, at its option, extend said 60-day notice period for additional periods for purposes of possible settlement of any breach. City may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the Leased Premises and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to City.

## **21. Nonwaiver of Defaults.**

The waiver by City of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition of this Lease. No term, covenant or condition hereof can be waived except by the

written consent of City and forbearance or indulgence by City, in any regard whatsoever, shall not constitute a waiver of the terms, covenants or conditions to be performed by Lessee to which the same may apply, and until complete performance by Lessee of the term, covenant or condition, City shall be entitled to revoke any remedy available to it hereunder or by law, despite such forbearance or indulgence.

**22. Subordination for Benefit of City.**

If City desires this Lease to be subordinated to any mortgage, deed of trust or other encumbrance ("Fee Mortgage") now or hereafter placed upon the Leased Premises by City, and all advances, whether obligatory or optional made on the security thereof, and to all renewals, modifications, consolidations, replacements and extensions thereof, this Lease, at City's election, shall be subordinate to any such Fee Mortgage provided City first obtains from the lender a written agreement that provides substantially as follows: As long as Lessee performs its obligations under this Lease, no foreclosure of, deed given in lieu of foreclosure of, or sale under the encumbrance, and no steps or procedures taken under the encumbrance, shall affect Lessee's rights under this Lease.

Subject to the foregoing, Lessee agrees to execute any documents required to effectuate such subordination, and failing to do so within 10 days after City's written request to Lessee therefore, does hereby irrevocably appoint City as Lessee's attorney-in-fact in Lessee's name to do so.

**23. Lessee's Encumbrance.**

A. Lessee may encumber Lessee's interest in the Leased Premises and in any improvements Lessee places thereon by mortgage, deed of trust or other instrument. Lessee shall obtain Landlord's advanced written consent to any such encumbrance, such consent not to be unreasonably withheld. If City consents to an encumbrance, Lessee shall deliver to City written notice showing:

- The identity of the trustee, mortgagee, beneficiary or payee;
- The amount of the obligation secured by such instrument and the date or dates of maturity thereof; and
- The name and post office address of such mortgagee, beneficiary, payee or trustee.

Upon the delivery of such notice to City, City shall thereafter serve on such mortgagee, beneficiary, payee or trustee, by registered or certified mail at the address given or at any subsequent address thereafter given, a copy of every notice served by City upon Lessee under the terms of this Lease during the existence of such mortgage, deed of trust or instrument.

B. In the event Lessee defaults in the performance of any covenant or provision hereof to be performed by Lessee during the existence of any such mortgage, deed of trust or instrument, the beneficiary, mortgagee, payee or trustee named in any such notice, or their nominee, shall have the right within the time herein provided, plus an additional 30 days, to perform and comply with all the covenants and provisions of this Lease to be performed by Lessee and to make all payments required of Lessee by this Lease and, by so doing, to cure and remove any such default.

C. If the nature of any default by Lessee is such that it cannot be cured within such additional 30 days such beneficiary, mortgagee, payee or trustee shall be deemed to have cured such default if it or its nominee shall, within such 30-day period, commence performance and thereafter diligently prosecute the same to completion.

D. If there is a foreclosure of any lien secured by any mortgage, deed of trust or other similar instrument on the Leased Premises, the purchaser in foreclosure shall be deemed to be the Lessee hereunder for all purposes, the same as though such purchaser were the original Lessee hereunder and in no event shall such purchase work a merger. Nothing contained herein shall require the leasehold Mortgagee(s) to cure any default of Lessee hereunder, but such failure to cure and proceed in accordance with this Section 23 shall leave City free to terminate this Lease and to pursue all of its rights against Lessee.

E. City agrees that the name of the leasehold Mortgagee(s) may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Lessee hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Lease and that the leasehold Mortgagee(s) or collateral document shall so provide.

#### **24. Rights Upon Termination.**

If Lessee is not in default hereunder, Lessee shall have the right to remove only the trade fixtures which Lessee may have placed or installed upon the Leased Premises during the term of the Lease; provided, however, that upon said removal, Lessee shall repair, at Lessee's own expense, any damage resulting therefrom. The term "trade fixtures" means those improvements, other than structures or structural modifications installed by Lessee, used for the conducting of Lessee's business and which can be removed without interference or damage to structures.

#### **25. Subletting/Assignment.**

A. Except as provided in Section 23 of this Lease entitled "Lessee's Encumbrance," Lessee may not sublease or assign all or any portion of the Leased Premises or the Improvements constructed or installed on the Leased Premises without the prior written consent of City, which consent shall not be unreasonably withheld. Any such sublease shall provide (i) such subleasing shall be subject to the terms of this Lease, (ii) such subleasing shall comply with all applicable statutes and regulations, (iii) all building improvements and alterations constructed on the Leased Premises shall have been approved by City pursuant to Section 6 of this Lease, (iv) Lessee shall remain liable under this Lease; and (v) each sublease shall contain a provision satisfactory to City requiring the sublessees, if City shall so demand, to attorn to City if Lessee defaults under this Lease, and if the sublessees is notified of Lessee's default and instructed to make sublessee's rental payments to City, but City shall have no obligation to recognize the sublessees or to allow any sublessees to remain in possession upon the default of Lessee.

B. City's consent to an assignment of Lessee's interest in this Lease shall be conditioned upon (i) execution by Lessee and its assignee (the "Assignee") of an assignment and assumption agreement in form satisfactory to City, (ii) execution by Lessee and Assignee with acknowledgements, and recordation in the official records of the County at Lessee's cost, of a memorandum of assignment, and (iii) payment by Lessee or Assignee of all state, local and any other excise, transfer or documentary taxes imposed as a result of the execution of such assignment. If Lessee or Assignee should fail to record a memorandum of assignment in the official records within ten (10) business days after such assignment, Lessee and Assignee hereby

appoint City as their attorney-in-fact for the sole purpose of executing a memorandum of assignment; thereafter City may record the memorandum of assignment in the official records and Assignee shall pay to City, within ten (10) business days after written notice and as additional rent, all of City's costs (including without limitation the cost to prepare and record such memorandum, recording fees and transfer taxes) and attorneys fees incurred to prepare and record the memorandum of assignment.

C. If Lessee is a corporation or a partnership, any change in Lessee which would be a "change in ownership" pursuant to California Revenue and Taxation Code Sections 60, et seq., shall be deemed an assignment subject to City's consent. It shall not be unreasonable for City to withhold or condition its consent based on the prospective assignee's financial strength, experience in operating the type of business permitted, credit history or any other factor which City reasonably believes germane to a Lessee's ability and willingness to perform the obligations of this Lease. No such assignment shall release Lessee of further liability under this Lease.

D. If Lessee sublets or assigns all or any portion of the Leased Premises, Lessee shall pay to City, in addition to the Fixed Annual Rent specified in Section 5, ninety (90%) percent of the difference between the Fixed Annual Rent and the Fair Market Rental Value of the Leased Premises at the date of commencement of the subtenancy or assignment. If the Fair Market Rental Value on such commencement date is less than the Fixed Annual Rent, Lessee shall be obligated to pay the Fixed Annual Rent only. For purposes of this Section 25.C, Fair Market Rental Value of the Leased Premises means the rental rate at which Lessees lease comparable land as of the commencement of the subtenancy or assignment. For this purpose, "comparable land" shall be industrial or airport land that is comparable in size, location and quality to the Leased Premises, leased for a term comparable to this Lease, allows for the construction of improvements comparable to the improvements constructed on the Leased Premises and allows uses comparable to the uses allowed under this Lease. In the event of a dispute between Landlord and Lessee concerning the Fair Market Rental Value, it shall be resolved by mediation/arbitration pursuant to Section 31.

E. A fee will be charged by City for processing or approval of any sublease or assignment requested by Lessee including any and all administrative, legal and other costs reasonably incurred by City. The minimum charge by City for the review, processing or approval of such request shall be \$200.00.

**26. Effect of Failure to Comply.**

Except as provided above in Section 23, no encumbrance, assignment or other transfer, whether voluntary, involuntary, by operation of law, under legal process, through a receivership, bankruptcy or otherwise, shall be valid or effective without the prior written consent and approval of City. If Lessee attempts to make or allow to be made any subleasing, encumbrance, assignment or other transfer except in accordance with the provisions of Section 23, then any of the foregoing events shall be deemed a breach of the conditions and restrictions of this Lease, and upon such breach, City may, at its option, terminate this Lease at once by written notice, and upon such termination this Lease shall end and be of no further force.

**27. Condemnation.**

If, during the term of this Lease there is a taking, or transfer of, or damage to all or any part of the Leased Premises (Leased Premises as used herein shall include all appurtenant

interests such as access rights) for a public use by any individual or entity, public or private, possessing the power of eminent domain, whether by condemnation proceedings or otherwise (hereinafter referred to as "appropriation"), the rights and obligations of City and Lessee with regard to such appropriation shall be governed by the provisions of this article.

A. The date of taking, as used in this article, is defined as the earliest of the following dates: (i) the date legal possession is taken, which is defined as the date, if any is established, after which the condemnor may take possession of the property as stated in an order authorizing the condemnor to take possession; (ii) the date a final order of condemnation or final judgment is filed or recorded or the date a deed is recorded in the event of a voluntary sale; and (iii) the date physical possession of the property is taken.

B. Total taking means an appropriation of the entire Leased Premises or so much thereof as to prevent or substantially impair the conduct of Lessee's business unless Lessee elects to continue the Lease in effect. If during the term of this Lease there is an appropriation of the Leased Premises which amounts to a total taking as herein defined, then the leasehold estate of Lessee in and to the Leased Premises shall cease and terminate as of the date of such taking, and all rentals and other charges payable by Lessee to City hereunder and attributable to the Leased Premises shall be paid up to the date of such taking.

C. The term "partial taking" shall mean the taking of a portion only of the Leased Premises which does not constitute a total taking as defined above. If during the term of this Lease there shall be a partial taking of the Leased Premises, this Lease shall terminate as to the portion of the Leased Premises so taken at the date of taking as herein defined, but said Lease shall continue in force and effect as to the remainder of the Leased Premises. The rental payable hereunder by Lessee shall, as of the date of taking, be adjusted so that Lessee shall be required to pay for the remainder of the term only such portion of such rent as the value of the part of the Leased Premises remaining after the taking bears to the value of the entire Leased Premises at the date of taking.

D. In the event the condemning agency shall abandon an eminent domain proceeding, either party hereto shall have the right to contest the condemnor's abandonment and a right to its respective costs and disbursements as defined and provided for in California law. If after the condemnor takes possession or the Lessee moves from the property sought to be condemned in compliance with an order of possession, the condemnor abandons the proceeding as to such property or a portion thereof, or if it is determined that the condemnor does not have authority to take such property or portion thereof by eminent domain and the condemnor is required by law to deliver possession of such property or such portion thereof to the party entitled to the possession thereof and pay damages as provided for in California law, then Lessee shall receive the award for costs and damages incurred by reason of Lessee being removed from possession of the Leased Premises, but Lessee shall be entitled to retake possession of the Leased Premises and, in the event of such repossession by Lessee, all of the terms of this Lease shall remain in operation and effect.

E. All compensation and damages awarded for the taking of the Leased Premises or any portion thereof shall, except as otherwise herein provided, belong to and be the sole property of City. However, any award that may be made for the taking of or injury to the improvements, and all other improvements constructed by Lessee on the Leased Premises shall be equitably apportioned between Lessee and City if, at the time of the taking, the expected useful life of the improvements extends beyond the Termination Date provided for in Section 4. Otherwise,

Lessee shall be entitled to such award. Lessee shall be entitled to any award for damage to Lessee's business or on account of any cost or loss Lessee may sustain in the removal of Lessee's fixtures, equipment and furnishings, or as a result of any alterations, modifications or repairs which may be reasonably required by Lessee in order to place the remaining portion of the Leased Premises not so condemned in a suitable condition for the continuance of Lessee's tenancy. Lessee shall also be entitled to that portion of any award that may be attributable to any severance damages to the remaining leasehold interest and to any improvements constructed by Lessee.

F. Each party shall bear his own costs, attorneys' fees, appraiser's fees and all other costs in connection with any matter contained in this article, except as may be otherwise provided.

G. Neither party hereto shall grant a right of entry to any condemnor without the written consent of the other party hereto.

**28. Right to Amend.**

In the event the Federal Aviation Administration requires modifications or changes in this Lease as a condition precedent to the granting of funds for the improvement of the airport, Lessee agrees to consent to such amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Lease as may be reasonably required to obtain such funds; provided, however, that in no event will Lessee be required, pursuant to this paragraph, to agree to an increase in the rentals provided for in this Lease or to a change in the use (provided such use is an authorized use hereunder) to which Lessee has put the Leased Premises or to change which would substantially affect the rights of a mortgagee, beneficiary, payee or trustee registered with City as provided in Section 23.

**29. Compliance with Federal Requirements.**

A. Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to (i) Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, or as said Regulations may be amended; (ii) Title 14, Code of Federal Regulations, Part 152, Subpart E, or as said Regulations may be amended; (iii) Part 77 of the Federal Aviation Regulations, or as said Regulations may be amended; and (iv) any and all federal laws, rules or regulations relating to the operations of Lessee on the Leased Premises.

B. Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land: (i) that no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities; (ii) that in the construction of any improvements on, over or under such land and

the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination; and (iii) that Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

C. That in the event of breach of any of the above nondiscrimination covenants, Landlord shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including expiration of appeal rights.

D. Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

E. Noncompliance with Section 29.D above shall constitute a material breach thereof and, in the event of such noncompliance, Landlord shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of Landlord or the United States either or both said Governments shall have the right to judicially enforce provisions.

F. Lessee agrees that it shall insert Sections 29.A through 29.E in any lease agreement by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Leased Premises herein leased.

G. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

H. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. Section 1349a).

I. This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States of America during the time of war or national emergency.

### **30. Estoppel Certificates.**

City and Lessee shall, respectively, at any time and from time to time upon not less than 10 days' prior written request by the other, deliver to the requesting party an executed and acknowledged statement in writing certifying:

A. That this Lease is unmodified and in full force and effect (or if there has been any modification(s) thereof that the same is in full force and effect as modified, and stating the nature of the modification or modifications);

B. That to its knowledge the requesting party is not in default under this Lease (or if any such default exists, the specific nature and extent thereof), and

C. The date to which rent and other charges have been paid in advance, if any. Each certificate delivered pursuant to this section may be relied on by any prospective purchaser or transferee of the Leased Premises or of City's or Lessee's interest hereunder or by any fee mortgagee of the Leased Premises or of City's or Lessee's interest hereunder or by any assignee of any such mortgagee.

### **31. Mediation/Arbitration.**

All claims, disputes and controversies arising out of or in relation to the performance, interpretation, application or enforcement of this Lease, including, but not limited to, breach thereof ("Mediation/Arbitration Dispute"), except (a) the payment of rent, which Lessee acknowledges is an independent covenant not subject to offset or deduction, and (b) the matters described in Section 31.B (4), shall be decided under this Section 31 pursuant to mediation, and if necessary, arbitration. If Lessee defaults in the payment of rent, this Section 31 shall not apply and City may pursue any and all legal and equitable remedies provided by law, including, without limitation, an unlawful detainer action, writ of possession, and a money judgment for unpaid rent.

#### **A. Mediation.**

(1) Any Mediation/Arbitration Dispute shall be referred to mediation before, and as a condition precedent to, the initiation of any arbitration proceeding.

(2) The parties shall submit any Mediation/Arbitration Dispute to an impartial neutral mediator selected by mutual consent of the parties. In the event the parties cannot agree on the selection of a mediator, the Mediation/Arbitration Dispute shall be referred to JAMS/Endispute, a professional mediation service. The parties shall equally bear the cost of mediation fees, subject only to the exception set forth in the next paragraph.

(3) If during the mediation a party ("offering party") makes a written offer of compromise to another party which is not accepted by such party ("refusing party") and the refusing party fails to obtain a more favorable result through arbitration, the refusing party shall pay the offering party all costs and expenses, including reasonable attorney fees and the cost of the mediator and arbitrator, incurred from the time the offer is refused.

#### **B. Arbitration.**

(1) A Mediation/Arbitration Dispute which is not resolved through mediation, as set forth above, shall be decided by neutral, binding arbitration and not by administrative proceeding or court action, except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted in accordance with the rules governing the conduct of arbitration proceedings set forth in the California Code of Civil Procedure and the California Rules of Court. The parties may agree in writing to use different rules. The parties shall have the right to discovery in accordance with the provisions of the California Code of Civil Procedure. Judgment on any award of the arbitrator may be confirmed and entered by the court as provided for by California law.

(2) An arbitrator may be selected by mutual consent of the parties. If the parties cannot agree on selection of an arbitrator within 15 days from the date either party first

requests arbitration, an arbitrator familiar with handling similar disputes shall be appointed by JAMS/Endispute. The cost of the arbitrator, arbitration costs and attorney fees shall be borne by the parties as may be determined by the arbitrator.

(3) Any demand for arbitration must be made in writing to the other party. No demand for arbitration may be made after the date on which the institution of legal proceedings based on the claim is barred by the applicable statute of limitations.

(4) The parties shall each have the right to file with a court of competent jurisdiction an application for temporary or preliminary injunctive relief, writ of attachment, writ of possession, temporary protective order, or appointment of a receiver if the arbitration award to which the applicant may be entitled may be rendered ineffectual in the absence of such relief or if there is no other adequate remedy. This application shall not waive a party's arbitration rights under this Lease.

(5) The arbitrator shall have the power to grant legal and equitable remedies, and award damages, that may be granted or awarded by a judge of the Superior Court of the State of California or the Federal District Court of the Eastern District of California. The arbitrator shall prepare and provide to the parties a written decision on all matters subject to the arbitration, including factual findings and the reasons that form the basis of the arbitrator's decision. The arbitrator shall not have the power to commit errors of law or legal reasoning and the award of the arbitrator shall be vacated or corrected for any such error or any other grounds specified in Code of Civil Procedure Section 1286.2 or Section 1286.6. The award of the arbitrator shall be mailed to the parties no later than 30 days after the close of the arbitration hearing. The provisions of the California Evidence Code shall apply to the arbitration hearing. The arbitration proceedings may be recorded by a certified shorthand court reporter. The party requesting a reporter shall pay for the reporter and if both sides request a reporter, the cost of the reporter shall be divided equally. Written transcripts of the proceedings may be prepared at the request of a party. A party requesting a transcript shall pay for the cost thereof.

**32. Consent Not to be Unreasonably Withheld.**

Whenever the consent, approval or permission is required hereunder by either Lessee or City, such consent, approval or permission is not to be unreasonably withheld.

**33. Use of Airport.**

The Lessee, in the operations and use of the Auburn Municipal Airport, will not on the grounds of race, color or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 15 of the Federal Regulations. The City of Auburn is granted the right to take such action as the United States government may direct to enforce such covenant.

**34. Relationship Between the Parties.**

City is neither a joint venturer with nor a partner or association of Lessee with respect to any matter provided for in this Lease. Nothing herein contained shall be construed to create any such relationship between the parties or to subject City to any obligation of Lessee hereunder.

**35. Time of the Essence.**

Time is of the essence of this Lease.

**36. Lease Made in California.**

This Lease has been made and shall be construed in accordance with the laws of the State of California. All duties, obligations and liabilities of City and Lessee with respect to the Leased Premises are expressly set forth herein and this Lease can only be amended in writing.

**37. Headings.**

The headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provisions of this Lease.

**38. Attorneys' Fees.**

In the event that either party shall file suit to enforce the terms of this Lease, the successful party shall be awarded a reasonable attorney fee, which will be fixed by the Court.

**39. Notices.**

All notices to be given hereunder shall be in writing and shall be deemed given when received in the United States mail, postage prepaid, certified or registered, addressed as follows, or to such other address as from time to time may be designated by a party by written notice to the other parties:

A. City of Auburn  
Office of City Manager  
1225 Lincoln Way  
Auburn, CA 95603

B. "Lessee"  
Chet Eccles III  
2400 Lindbergh Street  
Auburn, CA 95602

**40. Surrender and Merger.**

The voluntary or other surrender or termination of this Lease by Lessee or a mutual cancellation thereof shall not work a merger and shall, at the option of City, terminate all or any existing subleases or subtenancies or may, at the option of City, operate as an assignment to City of all such subleases or subtenancies.

**41. City's Lien.**

If Lessee is in default under any covenant, term or provision of this Lease or has abandoned the Leased Premises, in addition to the rights of City under Section 11 hereof, Lessee hereby grants to City a lien (which shall be subordinated to any lien created pursuant to Section 23 hereof) upon any improvements, personal property and trade fixtures of Lessee upon the Leased Premises, which lien City may satisfy by selling said improvements, personal property or trade fixtures at public or private sale without notice to Lessee and from the proceeds of said sale satisfy, first, any costs of storage, removal and sale and any other debts due from Lessee to City and, secondly, satisfy the total amount of unpaid rent due hereunder and hold any balance for the account of Lessee. This lien shall accrue to City's benefit whenever Lessee is in default hereunder and when City exercises any right which City may have at law, in equity or under this Lease.

**42. Right of First Refusal to Purchase Land.**

In the event that City should wish to sell the real property herein described at any time during the term of this Lease, or six months thereafter, City shall first give notice to Lessee of the

terms and conditions of any offer to purchase said real property from City by any third person not a party to this Lease, and Lessee shall thereafter have a period of 60 days in which to purchase said real property upon the same terms and conditions of any such bona fide offer or bid acceptable to City. If Lessee does not purchase said real property within 60 days after notice of said offer or bid and deposit the full consideration therefor with a licensed escrow company satisfactory to City, City thereafter shall be relieved of any obligation of sale to Lessee as herein provided.

**43. Right of First Refusal to Re-Lease Land.**

In the event that City should wish to lease the real property herein described after the term of this Lease, City shall first give notice to Lessee of the terms and conditions of any offer to lease said real property from City. Lessee shall thereafter have a period of 60 days in which to enter into a new lease for said real property. If Lessee does not lease said real property within 60 days after notice of said offer, City thereafter shall be relieved of any obligation to Lessee as herein provided.

**44. Successors and Assigns.**

Subject to the terms and conditions of Section 25 hereof, the provisions of this Lease shall bind and inure to the benefit of the successors and assigns of the parties hereto.

**45. Rights of Flight.**

The Leased Premises are subject to a right of flight for the passage of aircraft above the Leased Premises for landing at, taking off from, and operating aircraft on or over the airport, all in accordance with applicable safety and operating regulations of the Federal Aviation Agency.

**46. Memorandum of Lease.**

Concurrently with the delivery of this Lease, City and Lessee will execute, have acknowledged and record in the official records a Memorandum of Lease in form prepared by City. Lessee shall pay all state, local and any other excise, transfer or documentary taxes imposed as a result of the execution, delivery and acceptance of this Lease, and the recording of the Memorandum of Lease. Further, upon an amendment of this Lease affecting any or all of the term of the Lease, the identity of Lessee and/or the description of the Leased Premises, the parties shall execute, have acknowledged and record a memorandum of amendment in form approved by City, and Lessee shall be responsible to pay all fees and costs, and all state, local and any other excise, transfer or documentary taxes imposed as a result of the execution and delivery of such amendment, and the recording of the memorandum of amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

“CITY”

CITY OF AUBURN, CALIFORNIA, a  
Municipal Corporation

By: \_\_\_\_\_  
Robert Richardson  
City Manager

“LESSEE”

\_\_\_\_\_  
CHET ECCLES III

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Colantuono, City Attorney

## **EXHIBIT A**

There is no Exhibit A

EXHIBIT "B"

PROPERTY DESCRIPTION

PARCEL NO. 2

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point in the southerly boundary of said Eccles parcel, from which point a  $\frac{3}{4}$ " iron pin with a copper collar stamped LS 4571, marking the southwest corner of said property, bears South 89°40'24" West 261.91 feet; thence continuing along said southerly boundary line, North 89°40'24" East 98.22 feet, more or less, to the southeast corner of said Eccles parcel; thence continuing along the easterly boundary line of said Eccles parcel, North 00°14'13" West 126.55 feet, more or less, to the northeast corner thereof; thence continuing South 89°40'35" West 99.75 feet, along the northerly boundary line of said Eccles parcel; thence leaving said north line, South 00°55'40" East 126.56 feet, more or less, to the point of beginning, containing 12,527 square feet, more or less.

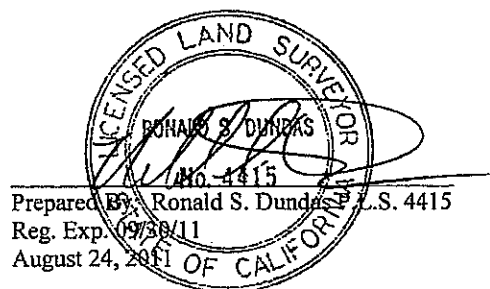


EXHIBIT "C"

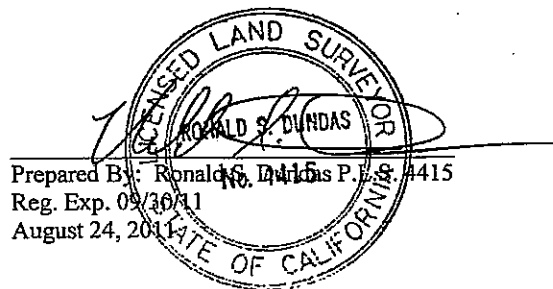
PROPERTY DESCRIPTION

PARCEL NO. 3

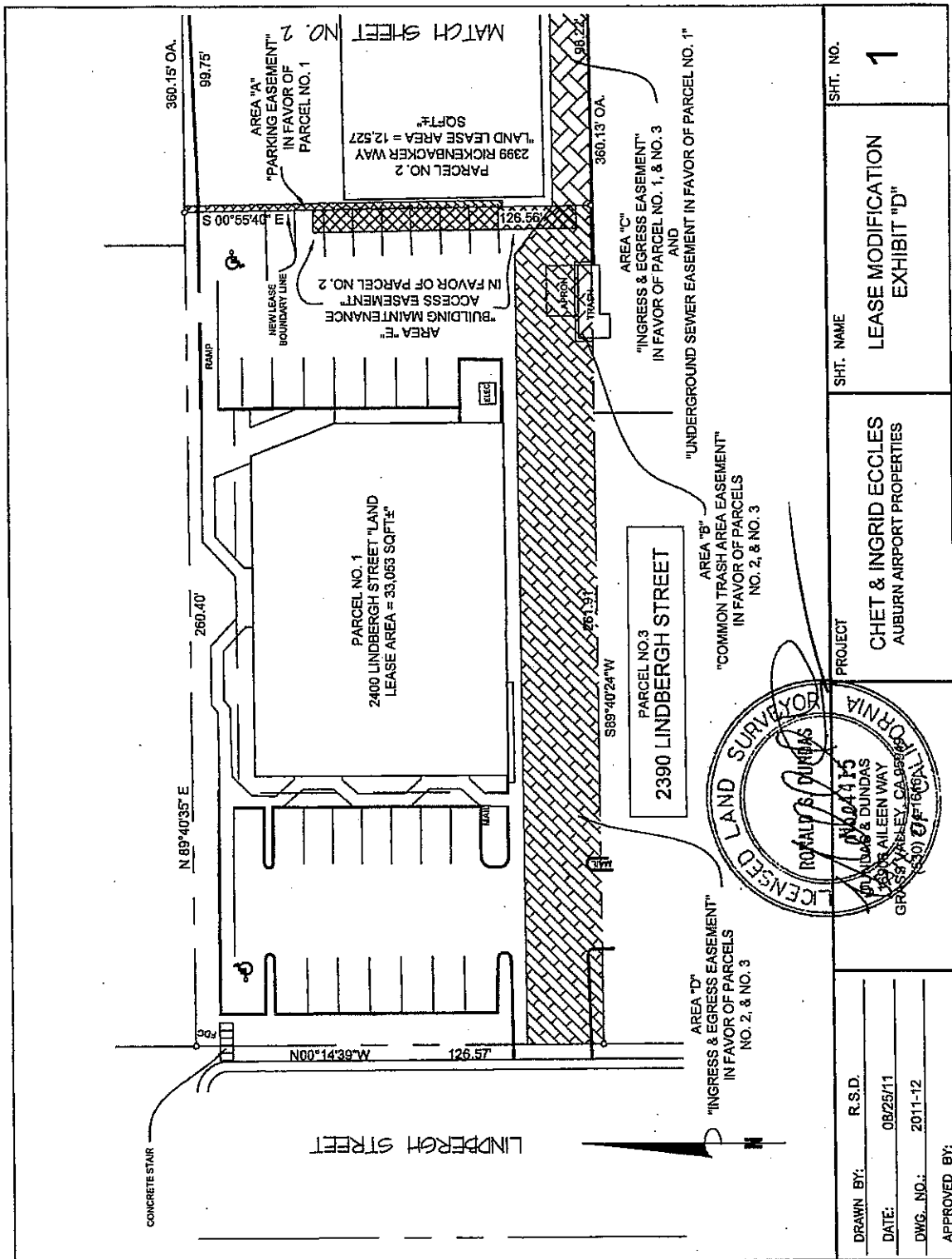
All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

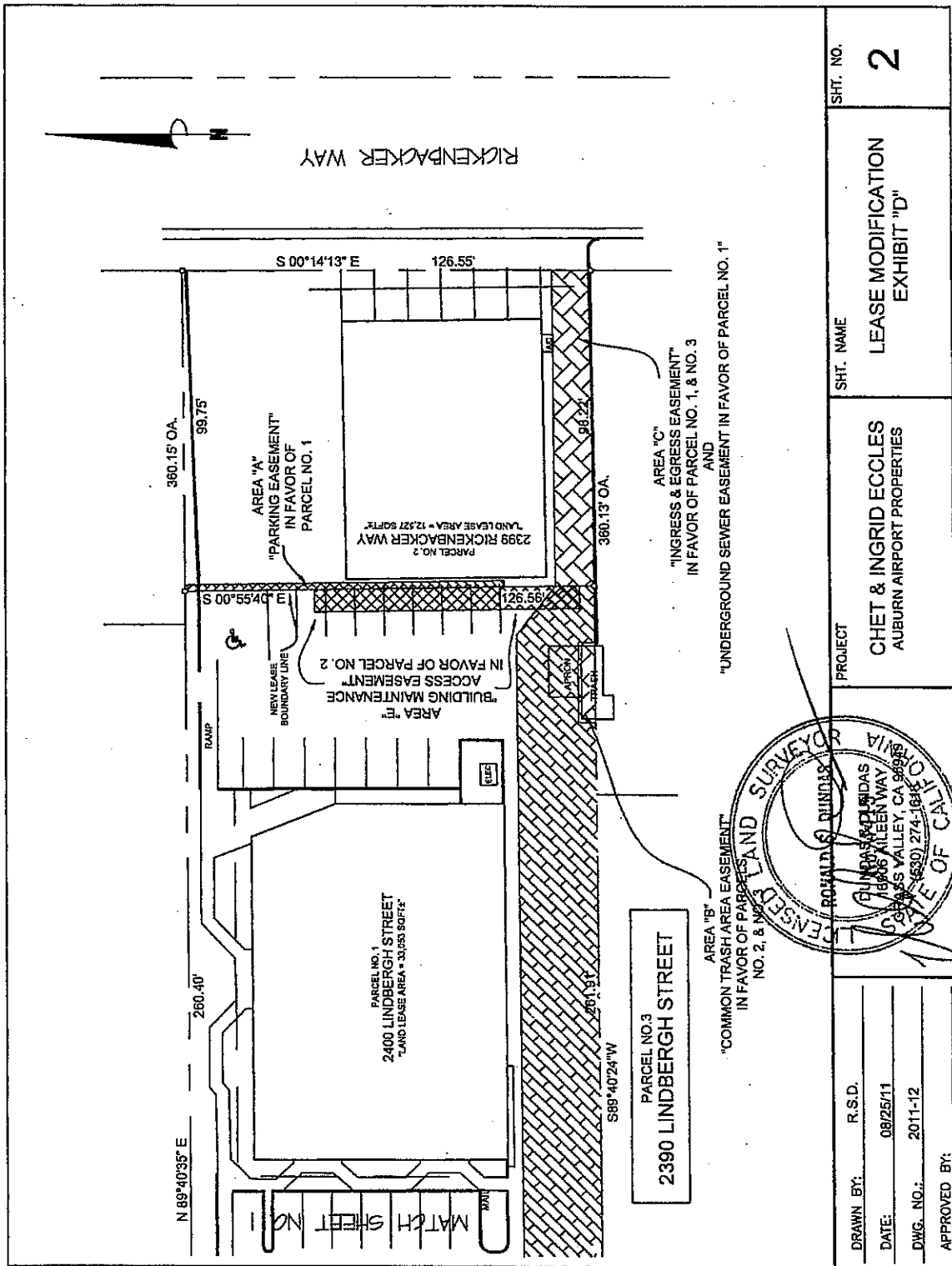
Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as:

"SPENCER/ECCLES #91-62"



**EXHIBIT D**  
**Depiction of the Leased Premises**  
(behind this page)





## EXHIBIT "E"

### EASEMENT DESCRIPTIONS

#### AREA "A" Parking Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the north line of the Eccles parcel, from which point the northwest corner thereof bears South 89°40'35" West 260.40 feet distant; thence leaving said north line, South 00°55'40" East 98.83 feet; thence North 89°40'35" East 2.00 feet; thence North 00°55'40" West 98.83 feet, more or less, to a point in the north line of said Eccles parcel; thence running along said north line, South 89°40'35" West 2.00 feet, more or less, to the point of beginning.

#### AREA "B" Common Trash Area Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the south boundary line of said Eccles parcel, from which point the southwest corner thereof bears, South 89°40'24" West 219.50 feet distant; thence running North 00°03'57" East 5.37 feet; thence South 89°56'03" East 24.78 feet; and thence South 00°03'57" West 5.20 feet, more or less, to a point in the south line of said Eccles parcel; thence South 89°40'24" West 24.78 feet, more or less, along the south boundary of said Eccles parcel, to the point of beginning.

AREA "C" Ingress, Egress and Sewer Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point on the south boundary line of said Eccles parcel, from which point the southwest corner thereof bears, South 89°40'24" West 261.91 feet distant; thence running North 00°55'40" West 12.00 feet; thence North 89°40'24" East 98.36 feet, more or less, to a point in the east boundary line of said Eccles parcel; thence continuing along said east boundary line, South 00°14'13" East 12.00 feet, more or less, to the southeast corner thereof; thence running along the south boundary line of said Eccles parcel, South 89°40'24" West 98.22 feet, more or less, to the point of beginning.

AREA "D" Ingress and Egress Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

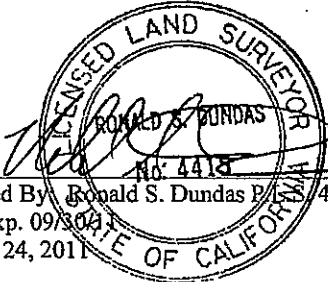
Beginning at the southwest corner of said Eccles parcel and running thence along the west boundary line of said parcel, North 00°14'39" West 24.00 feet; thence leaving said west boundary line, North 89°40'24" East 246.54 feet; thence South 52°04'02" East 19.38 feet; thence South 00°55'40" East 12.00 feet, more or less, to a point in the south boundary line of said Eccles parcel; thence continuing along said south boundary line, South 89°40'24" West 261.91 feet, more or less, to the point of beginning.

AREA "E" Building Maintenance Easement

All that real property situate in the City of Auburn, County of Placer, State of California, described as follows:

Being a portion of that certain real property shown upon that certain Record of Survey Map No. 1847 of the Auburn Airport, recorded in Book 14 of Surveys at Page 66, Placer County Records, designated on sheet no. 4 of said map as "CHET ECCLES III #79-88" more particularly described as follows:

Beginning at a point in said Eccles property, from which point the northwest corner thereof bears the following two courses distant, North 00°55'40" West 40.10 feet and South 89°40'35" West 260.40 feet; thence from said point of beginning South 00°55'40" East 81.84 feet; thence South 89°12'22" West 7.00 feet; thence North 00°55'40" West 81.84 feet; and thence North 89°12'22" East 7.00 feet, more or less, to the point of beginning.

  
Prepared By: Ronald S. Dundas PLS/4415  
Reg. Exp. 09/30/11  
August 24, 2011